

will notify you when we refer your request to another department.

(e) *Responding to your request*—(1) *Retrieving records*. The Agency is required to furnish copies of records only when they are in our possession and control. If we have stored the records you want in a record retention center, we will retrieve and review them for possible disclosure. However, the Federal Government destroys many old records, so sometimes it is impossible to fill requests. The Agency's record retention policies are set forth in the General Records Schedules of the National Archives and Records Administration and in BBG's Records Disposition Schedule, which establish time periods for keeping records before they may be destroyed.

(2) *Furnishing records*. (i) The Agency is only required to furnish copies of records that we have or can retrieve. We are not compelled to create new records. The Agency will aid requesters by providing records and information in the form requested, including electronic format, if we can readily reproduce them in that form or format.

(ii) We may decide to conserve government resources and at the same time supply the records you need by consolidating information from various records, in paper form or electronically, rather than copying them all. If the effort to produce records in electronic format would significantly interfere with the operations of the Agency, we will consider the effort to be an unreasonable search.

(iii) The Agency is required to furnish only one copy of a record. If we are unable to make a legible copy of a record to be released, we will not attempt to reconstruct it. Rather we will furnish the best copy possible and note its poor quality in our reply or on the copy.

(iv) If we cannot accommodate your request for form or format, we will provide responsive, nonexempt information in a reasonably accessible form.

### § 503.3 Availability of agency records.

(a) *Release of records*. If we have released a record or part of a record to others in the past, we will ordinarily release it to you also. This principle does not apply if the previous release

was an unauthorized disclosure. However, we will not release it to you if a statute forbids this disclosure and we will not necessarily release it to you if an exemption applies in your situation and did not apply or applied differently in the previous situation.

(b) *Denial of requests*. All denials are in writing and describe in general terms the material withheld and state the reasons for the denial, including a reference to the specific exemption of the FOIA authorizing the withholding or deletion. The denial also explains your right to appeal the decision and it will identify the official to whom you should send the appeal. Denial letters are signed by the person who made the decision to deny all or part of the request, unless otherwise noted.

(c) *Unproductive searches*. We will make a diligent search for records to satisfy your request. Nevertheless, we may not be able always to find the records you want using the information you provided, or they may not exist. If we advise you that we have been unable to find the records despite a diligent search, you will nevertheless be provided the opportunity to appeal the adequacy of the Agency's search. However, if your request is for records that are obviously not connected with this Agency or your request has been provided to us in error, a "no records" response will not be considered an adverse action and you will not be provided an opportunity to appeal.

(d) *Appeal of denials*. You have the right to appeal a partial or full denial of your FOIA request. To do so, you must put your appeal in writing and address it to the official identified in the denial letter. Your appeal letter must be dated and postmarked within 30 calendar days from the date of the Agency's denial letter. Because we have some discretionary authority in deciding whether to release or withhold records, you may strengthen your appeal by explaining your reasons for wanting the records. However, you are not required to give any explanation. Your appeal will be reviewed by the Agency's Access Appeal Committee that consists of senior Agency officials. When the Committee responds to your appeal, that constitutes the Agency's

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final action on the request. If the Access Appeal Committee grants your appeal in part or in full, we will send the records to you promptly or set up an appointment for you to inspect them. If the decision is to deny your appeal in part or in full, the final letter will state the reasons for the decision, name the officials responsible for the decision, and inform you of the FOIA provisions for judicial review.

#### § 503.4 Time limits.

(a) *General.* The FOIA sets certain time limits for us to decide whether to disclose the records you requested, and to decide appeals. If we fail to meet the deadlines, you may proceed as if we had denied your request or your appeal. Since requests may be misaddressed or misrouted, you should call or write to confirm that we have the request and to learn its status if you have not heard from us in a reasonable time.

(b) *Time allowed.* (1) We will decide whether to release records within 20 working days after your request reaches the appropriate area office that maintains the records you are requesting. When we decide to release records, we will actually provide the records at that time, or as soon as possible after that decision, or let you inspect them as soon as possible thereafter.

(2) We will decide an appeal within 20 working days after the appeal reaches the appropriate reviewing official.

(3)(i) The FOIA Officer or appeal official may extend the time limits in unusual circumstances for initial requests or appeals, up to 10 working days. We will notify you in writing of any extensions. "Unusual circumstances" include situations where we: Search for and collect records from field facilities, records centers or locations other than the office processing the records; search for, collect, or examine a great many records in response to a single request; consult with another office or department that has substantial interest in the determination of the request; and/or conduct negotiations with submitters and requesters of information to determine the nature and extent of non-disclosable proprietary materials.

(ii) If an extra ten days still does not provide sufficient time for the Agency

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to deal with your request, we will inform you that the request cannot be processed within the statutory time limit and provide you with the opportunity to limit the scope of your request and/or arrange with us a negotiated deadline for processing your request.

(iii) If you refuse to reasonably limit the scope of your request or refuse to agree upon a time frame, the Agency will process your case, as it would have, had no modification been sought. We will make a diligent, good faith effort to complete our review within the statutory time frame.

#### § 503.5 Records available for public inspection.

(a) To the extent that they exist, we will make the following records of general interest available for you in paper form or electronically for inspection or copying:

(1) Orders and final opinions, including concurring and dissenting opinions in adjudications. (See §503.8(e) of this part for availability of internal memoranda, including attorney opinions and advice.)

(2) Statements of policy and interpretations that we have adopted but which have not been published in the FEDERAL REGISTER.

(3) Administrative staff manuals and instructions to staff that affect the public. (We will not make available, however, manuals or instructions that reveal investigative or audit procedures as described in §503.8(b) and (g) of this part.)

(4) In addition to such records as those described in this paragraph (a), we will make available to any person a copy of all other Agency records, in the format requested, if available, unless we determine that such records should be withheld from disclosure under subsection (b) of the Act and §§ 503.8 and 503.9 of this part.

(b) Before releasing these records, however, we may delete the names of people, or information that would identify them, if release would invade their personal privacy to a clearly unwarranted degree (See §503.8(f)).

(c) The Agency's FOIA Guide and Index is available electronically via